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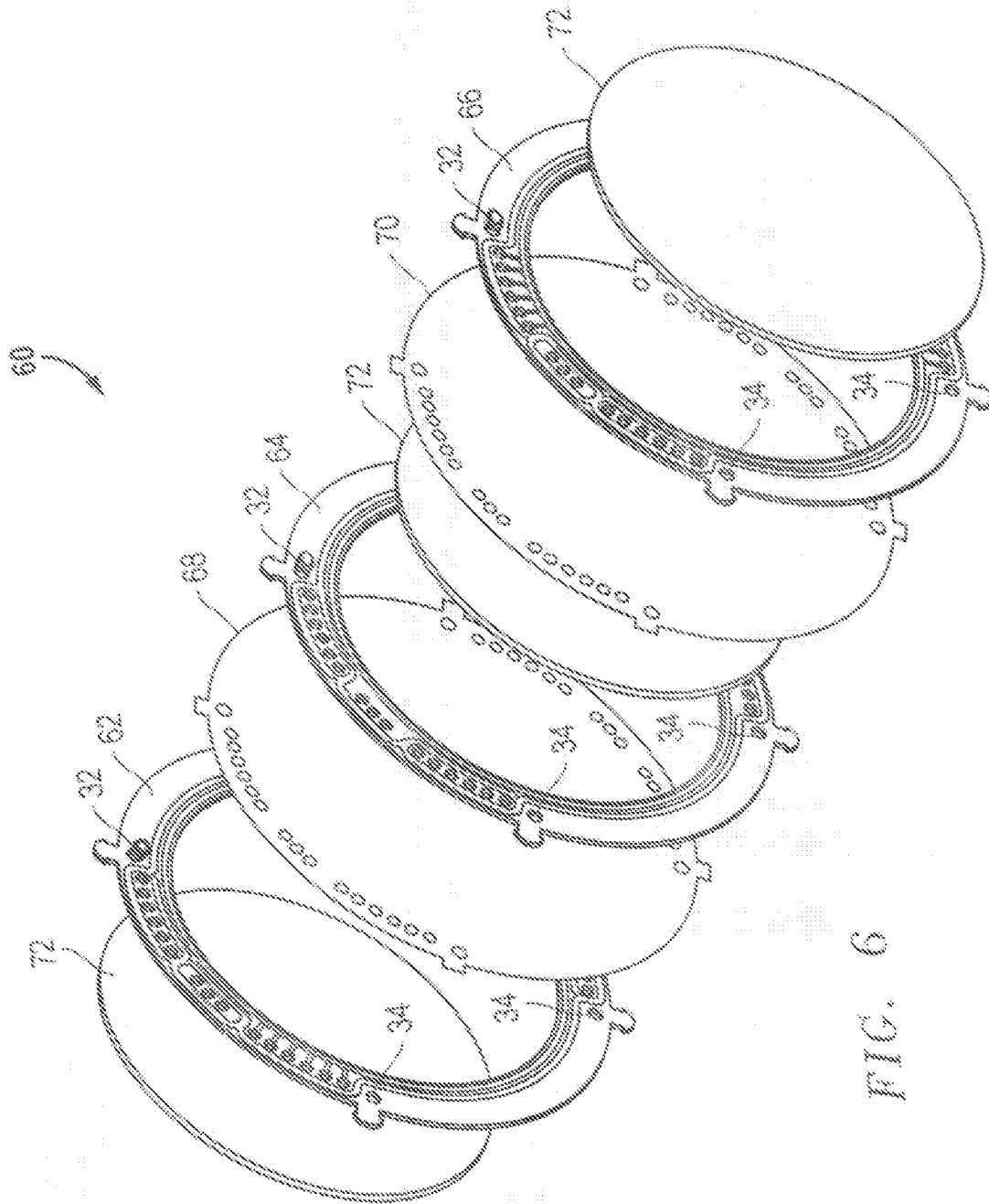


FIG. 6

### **REMARKS**

Please reconsider the application in view of the above amendments and the following remarks. Applicant thanks the Examiner for carefully considering this application.

#### **Election of Claims for Prosecution:**

The Examiner has required Applicant to elect a set of claims for prosecution on the merits under 35 U.S.C. 121. The Examiner has directed that the election be made between the following groups that the Examiner has determined to be patentably distinct:

- I. Claims 1-12, drawn to an assembly for an electrochemical cell, classified in class 429, subclass 34.
- II. Claims 13-16, drawn to a bipolar plate assembly, classified in class 429, subclass 38.

Applicant elects group I. Therefore, Applicant withdraws claims 13-16 from consideration, without disclaimer or prejudice. The withdrawn claims might be subject matter of a divisional application. Claims 1-12 remain pending.

#### **Objections to the Drawings**

The drawings stand objected to for failure of FIG. 6 to depict the claim elements of a "projection" and a "recess." FIG. 6 has been modified to more carefully show the projections 32 and cavities or recesses 34. The Applicant asserts that the modifications to FIG. 6 do not present new matter. Specifically, the modifications to FIG. 6 are consistent with elements 32 and 34 of FIGs. 3 and 7-8. Reconsideration and withdrawal of the objection is respectfully requested.

**Rejections under 35 U.S.C. § 112**

Claims 4, 6, 9 and 11 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out the distinctly claim subject matter which applicant regards as the invention.

Claim 4 has been amended to recite a positive limitation.

Claim 6 has been amended to recite a positive limitation.

Claim 9 has been amended to provide proper antecedent basis.

Claim 11 has been amended to provide proper antecedent basis.

**Claims analysis regarding the phrase "adapted to."**

Applicant thanks the Examiner for the claims analysis regarding this phrase. Notwithstanding the holding in *In re Hutchison*, applicant recognizes there remain instances in which the use of the phrase "adapted to" may have certain strategic advantages. Nevertheless, in this instance, the applicant deems it appropriate to replace the phrase "adapted to" with the phrase "configured for" in Claim 1, as amended, and to delete the phrase "adapted to" in Claim 2.

**Rejections under 35 U.S.C. § 103**

Claims 1-10 and 12 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Clark (US 6086643).

The present invention provides a method and apparatus for assembling electrochemical cell components. The components of the present invention provide alignment of two or more components without introducing additional parts that would add to the component count or complexity of the assembly process. In accordance with the present invention, the components can be made to be orientation-specific by using a non-symmetric placement of the projections and cavities. Accordingly, if two components are oriented improperly, then the projections and cavities will not align and will not allow interlocking of the components. It is preferred that the components only be allowed to interlock when the proper orientation is used.

Clark discloses a first component having at least one substantially continuous groove comprising a female opening and a second component having a substantially continuous "upstand" for sealing with the substantially continuous groove. By contrast, the drawings of the present application disclose a substantially continuous sealing member, which is separate and distinct from the interlocking projections and recesses shown and described. Claim one has been amended to clarify the present invention by reciting that the projections and recesses are non-continuous, as shown in the drawings. Claim 1 has also been amended to recite an aspect of the alignment between adjacent plates.

Regarding claim 7, Applicant respectfully notes that it is unclear how the single, continuous groove and corresponding upstand of Clark could be "unevenly spaced" about the plates, in the context in which that phrase is used in the present application. Nevertheless, claim 7 depends from claim 1, which is now allowable as amended.

Applicant also notes that Claims 8 and 9 also depend from Claim 1, which is now allowable as amended.

The Examiner also notes under the subheading of this rejection that the selection of a known material based on its suitability for its intended use is *prima facie* obvious. Although the Examiner did not explicitly mention Claim 5, Claim 5 has been clarified to recite a positive limitation relating to this material selection, namely that the optionally polymeric projection is elastically deformed when disposed in the corresponding recess.

In view of the above, Clark fails to show or suggest the present invention as recited in Claim 1, as amended. Thus, Claim 1 as amended is patentable over Clark. Dependent claims 2-10 and 12 are allowable for at least the same reasons. Reconsideration and withdrawal of the rejection is respectfully requested.

Claims 1 and 11 stand rejected under 35 U.S.C 103(a) as being unpatentable over Inagaki (US 2003/0064272) in view of Clark (US 6086643). The Examiner cites Inagaki for disclosing a fuel cell assembly comprising a plurality of plates, but also states that Inagaki does not disclose at least one projection and a recess on a plate that are self-aligning. (Office Action, page 8, lines 3-5). However, as pointed out above, neither does Clark teach or suggest projections and recesses that are non-continuous. Accordingly, Clark and Inagaki fail to show or suggest the present invention as recited in Claim 1, as amended. Thus, Claim 1 as amended is patentable over these references. Dependent claim 11 is allowable for at least the same reasons. Reconsideration and withdrawal of the rejection is respectfully requested.

In the event there are additional charges in connection with the filing of this Response, the Commissioner is hereby authorized to charge the Deposit Account No. 50-0714/LYNN-0162 of the firm of the below-signed attorney in the amount of any necessary fee.

Respectfully submitted,

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